

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 3611 - HB 3825

March 20, 2012

**SUMMARY OF BILL:** Requires an employer or employee of the employer who contracts with a school, local board of education, or child care program and who has direct contact with school children or children in a child care program to be checked against the Department of Health's (DOH) vulnerable persons registry under Tenn. Code Ann. Title 68, Chapter 11, Part 10; the Department of Children's Services' (DCS) registry of persons who are perpetrators of child abuse or neglect; and a Department of Human Services' (DHS) registry of persons who are perpetrators of abuse or gross neglect of adults. Prohibits access to children or facilities until these checks have been undertaken. Prohibits individuals on such lists from coming in direct contact with school children, students in a child care center, or from entering the grounds of a school or child care center when children are present until the person has been reclassified as "not indicated" by the department that made the finding.

Prohibits individuals contracting with or entering into a contract with a school, board of education, or child care program and who have direct contact with children, who have been charged with an offense, that if committed on or after July 1, 2007, is classified as a sexual offense or a violent sexual offense, from coming into direct contact with children or entering grounds where children or present until the individual has been judged as not guilty or the charge has been dismissed or expunged.

Requires employees placed on such lists to notify their employer immediately upon receiving notification of this placement or notification. Requires employees who have been charged with an offense, that if committed on or after July 1, 2007, is a sexual offense or a violent sexual offense after a criminal background check has been performed, to immediately notify their employer upon receiving notice of the charge. Makes it a Class A misdemeanor to fail to notify the employer of placement on such registries or being charged with such offenses.

Prohibits the Department of Education (DOE), the State Board of Education (SBE), local boards of education, and all local education agencies (LEAs) from hiring any individual who is on the state's sex offender registry, the Department of Health's registry of vulnerable persons under Tenn. Code Ann. Title 68, Chapter 11, Part 10, or who has been indicated by the Department of Children's Services or the Department of Human Services as a perpetrator of child abuse or neglect, or abuse or gross neglect of an adult, until the individual has been reclassified as "not indicated" by the department making the finding. Requires the DOE, SBE, DOH, DCS, and DHS, to develop a procedure where all the names of potential employees of DOE, SBE, local boards of education, and LEAs are submitted to DOH, DCS, and DHS to determine if the potential employee is on the vulnerable persons registry or has been indicated of child abuse or neglect, or abuse or gross neglect of an adult. Requires that any information provided to DOE, SBE, local boards of education, and LEAs be confidential and not be redisclosed unless the

SB 3611 - HB 3825

information is already public record. Deletes requirement in current law that prohibits DCS from revealing the identity of individuals who have not exhausted or waived the full due process rights under state and federal law.

## **ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$1,171,100**

**Increase Federal Expenditures - \$690,800**

Assumptions:

- According to DHS, there will be no significant fiscal impact as a result of more checks being made against their registry to ensure that employees that are hired meet the bill's prohibitions.
- According to the Comptroller of the Treasury, some LEAs are currently doing background checks for all three registries as required by the bill.
- The Department of Children's Services estimates that additional hearings will be conducted for individuals in order for their identities to be revealed to local school systems and other governmental entities. Currently, DCS does not release any person's identity as being indicated if it has not released that person's name within the first two years following the indication. In order to provide the names after two years, DCS will hold hearings upfront, instead of only when DCS proposes to release their identities to employers as is current practice.
- DCS estimates that a due process hearing will be held on 600 cases per month. This will require more mailings to be sent out to notify individuals of hearings. DCS estimates that the cost per mailing is \$20 and that an additional 10,400 mailings will be sent for 5,200 cases.
- The increase in expenditures for mailings will be \$208,000 ( $10,400 \times \$20$ ). Of this amount, 49 percent (\$101,920) will be TennCare funding. Of the TennCare funding, \$67,502 will be federal funds at a 66.23 percent match rate and \$34,418 ( $\$101,920 - \$67,502$ ) will be state funding.
- Seven percent or \$14,560 ( $\$208,000 \times 7\%$ ) will be new federal Title IV-E funding.
- The remaining \$91,520 [ $\$208,000 - (\$101,920 + \$14,560)$ ] will be state funding.
- The increase in state funding for mailings will be \$125,938 ( $\$34,418 + \$91,520$ ).
- The increase in federal funding for mailings will be \$82,062 ( $\$67,502 + \$14,560$ ).
- To hear additional cases, DCS will hire 11 reviewers and 11 administrative judges.
- One reviewer will cost \$60,453 per position with salary \$34,400, \$11,053 benefits, and other expenditures of \$15,000; a total cost for 11 reviewer positions of \$664,983 ( $\$60,453 \times 11$ ).
- One administrative judge will cost \$89,901 with salary \$60,000, benefits \$14,901, and other expenditures of \$15,000 for a total cost for 11 administrative judges of \$988,911 ( $\$89,901 \times 11$ ).

- The total increase in expenditures for personnel will be \$1,653,894 (\$664,983 + \$988,911).
- Of the \$1,653,894, 45 percent (\$744,252) will be TennCare funding. Of the TennCare funding, \$492,918 will be federal funds at a 66.23 percent match rate and \$251,334 (\$744,252 - \$492,918) will be state funds.
- Seven percent or \$115,773 (\$1,653,894 x 7%) will be new federal Title IV-E funding.
- The remaining \$793,869 [\$1,653,894 – (\$744,252 + \$115,773)] will be state funding.
- The total increase in state expenditures for personnel will be \$1,045,203 (\$251,334 + \$793,869).
- The total increase in federal expenditures for personnel will be \$608,691 (\$492,918 + \$115,773).
- The total increase state expenditures for mailings and personnel will be \$1,171,141 (\$125,938 + \$1,045,203).
- The total increase in federal expenditures for mailings and personnel will be \$690,753 (\$82,062 + \$608,691).

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/msg